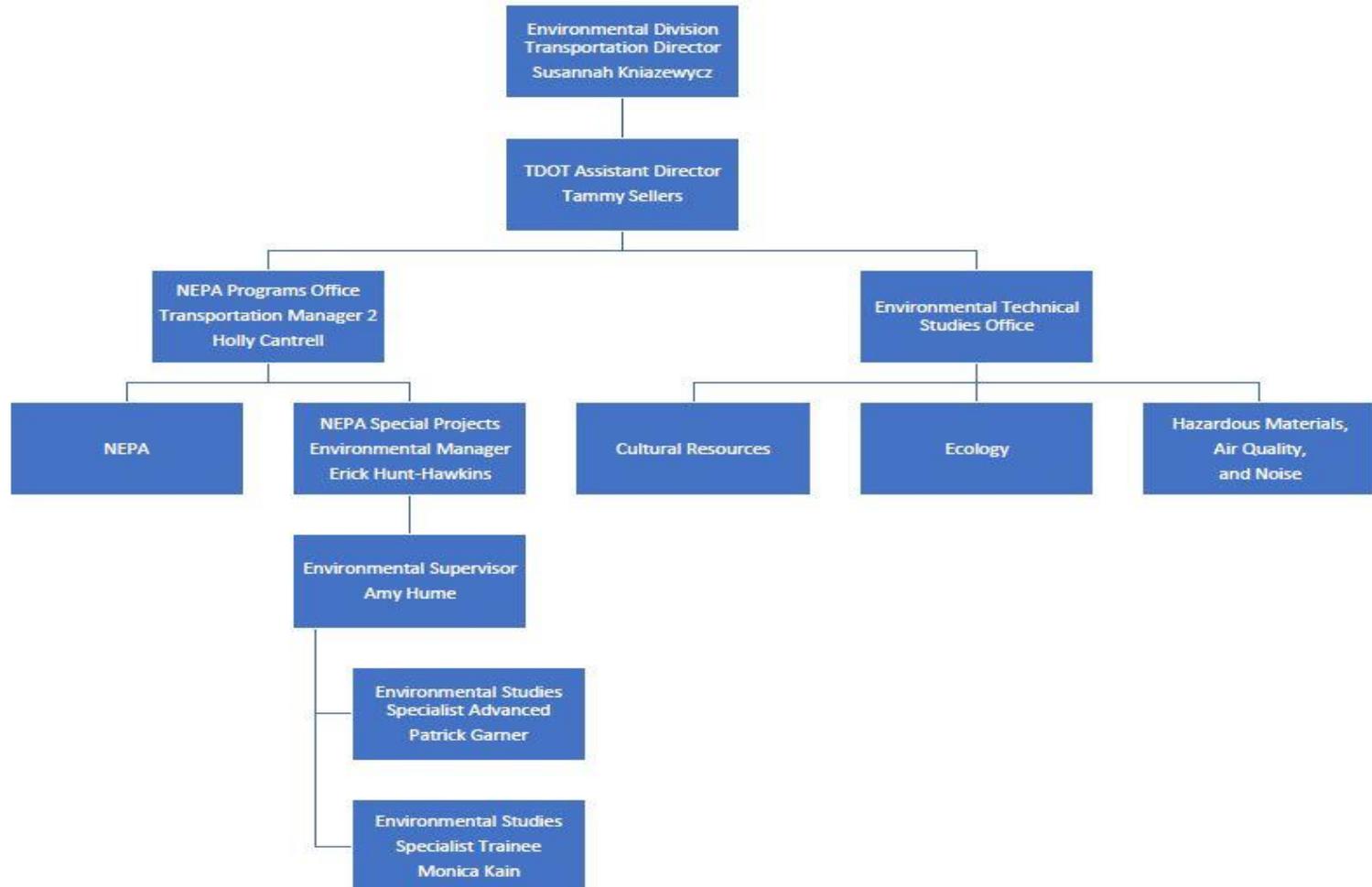




Local Government Guidelines Manual
2nd Quarter, 2023
NEPA Training
Wednesday, May 24, 2023

NEPA Programs Office | Environmental Division

TDOT NEPA Programs Office: NEPA Special Projects



What is NEPA?

National Environmental Policy Act (NEPA)

For all federal actions/decisions – including the provision of funds – requires the lead agency to take a hard look at the potential environmental consequences of the action/decision.

NEPA is a **Procedural Law**

- The Act – [42 U.S.C. §§ 4321 *et seq.*](#)
- CEQ Regulations – [40 CFR 1500-1508](#)
- FHWA Regulations – [23 CFR 771](#)*

*TDOT's NEPA Programs Office is only responsible for NEPA compliance for TDOT projects where FHWA is the lead federal agency. Questions on compliance for other federal agencies, including other USDOT modal agencies, should be addressed by others.

NEPA Umbrella



- **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**
- **Section 4(f) of USDOT Act (49 USC 303)**
- **Clean Air Act**
- **Safe Water Drinking Act**
- **Farmland Protection Policy Act**
- **Solid Waste Disposal Act**
- **Resource Conservation and Recovery Act of 1976 (RCRA)**
- **Title VI of Civil Rights Act of 1964**
- **Americans with Disabilities Act**
- **Executive Order 12898 (Environmental Justice)**

- **Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)**
- **Emergency Planning and Community Right to Know Act of 1986**
- **National Historic Preservation Act**
- **Economic, Social and Environmental Effects of Highways and Transit**
- **Highway Noise Standards**
- **Public Hearing Requirements**
- **Archaeological and Historic Preservation Act**
- **Archaeological Resources Protection Act**
- **AND MORE...**

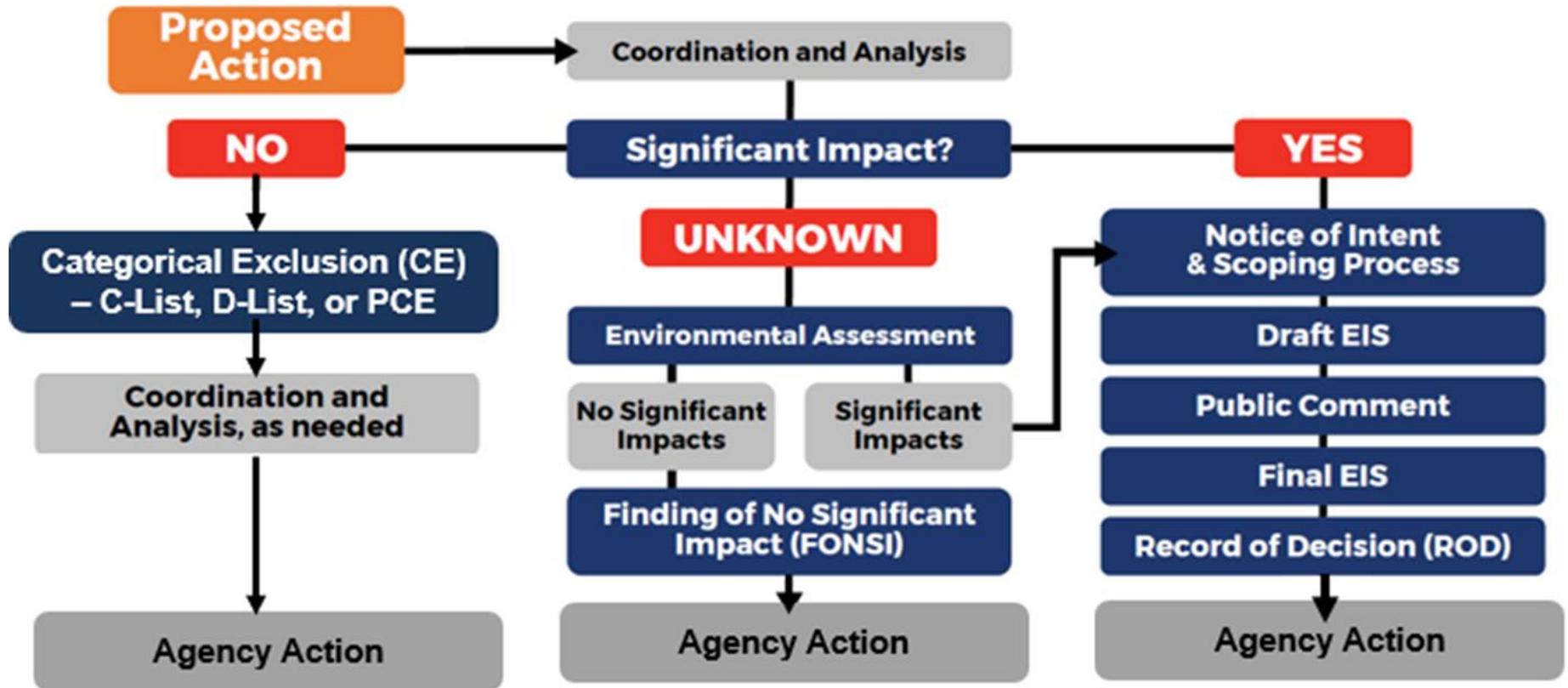
TDOT's NEPA Local Programs Staff:

- Serve as a single point of contact (POC) on behalf of TDOT's Environmental Division
- Provide reviews and guidance to ensure LP NEPA efforts are compliant with state/federal/department rules and guidance
- Oversee and provide general support, resources, and guidance, as needed, for completing the environmental/NEPA review and documentation process
- Sign and approve certain environmental documents on behalf of FHWA

Three Classes of Action

- **Categorical Exclusion (CE)**
 - Actions that do not individually or cumulatively have a significant impact
 - Excluded from requirement to prepare an EIS or EA
 - [23 CFR 771.117](#)
- **Environmental Assessment (EA)**
 - All actions that are not a CE or an EIS
 - Significance of impacts is not clearly established
 - Prepared to determine the appropriate environmental document required
 - [23 CFR 771.119](#) and [121](#)
- **Environmental Impact Statement (EIS)**
 - Actions that significantly affect the environment
 - [23 CFR 771.123](#), [124](#), [125](#), and [127](#)

Determining Class of Action



Categorical Exclusions (CEs)

- Meet the definition contained in 40 CFR 1508.1(d)
“a category of actions that the agency has determined... normally do not have a significant effect on the human environment.”
- Meets the criteria outlined in **23 CFR 771.117 (a)**, and does NOT meet any of the exceptions in 23 CFR 771.117(b)
- Three levels of CE documentation:
 - C-List CE
 - D-List CE
 - Programmatic CE

C-List CE

- FHWA's regulations outlined in **23 CFR 771.117(c)** identify a list of qualifying non-construction and limited construction activities that can be developed as C-List CEs.
- Examples of C-List CE qualifying actions include (but are not limited to):
 - Planning grants for training and research
 - Construction of pedestrian facilities
 - Utility installations
- Do not involve significant environmental impacts.
- Generally, can be approved in-house by TDOT, however, based on the circumstance surrounding a specific project, FHWA can request to review and approve certain C-List projects.

D-List CE



- Actions that have higher potential for impact, but the impacts would still be minor in nature.
- **23 CFR 771.117(d)**
- Based on past experience, these actions have been determined as being appropriate for CE classification.

Programmatic Categorical Exclusion (PCE)

- TDOT and FHWA entered into a “Programmatic Categorical Exclusion Agreement,” in which FHWA has agreed that their agency would not review or approve the NEPA documentation for certain actions, but instead **TDOT would be responsible for those tasks on the agency’s behalf.**
- The most current version of this agreement is the [June 18, 2018 PCE Agreement](#).

Tennessee Environmental Evaluation Report

- In accordance with TDOT policy, state-funded only projects that meet the regulatory requirements of a CE call for the completion of a Tennessee Environmental Evaluation Report (TEER)
- Required technical reviews and documentation generally follow the same format of standard CE projects and documentation.
- Some state-funded projects are eligible for “No TEER Required” documentation.
- Contact the NEPA Local Programs contact to discuss the project details.

TDOT.Env.LocalPrograms@tn.gov

Notice to Proceed

- Notice to Proceed
- Welcome Letter

Please visit the [NEPA Hub for Local Programs](#) or reach out to our office [NEPA Special Projects Office](#) with any questions prior to beginning the NEPA process.

**NOTICE TO PROCEED WITH THE FUNDED
PRELIMINARY ENGINEERING PHASE
(ENVIRONMENTAL ONLY)
OF PROJECT DEVELOPMENT**

PIN:
FEDERAL PROJECT NUMBER:
STATE PROJECT NUMBER:
ROUTE (STREET NAME):
FROM:
TO:
CITY:
COUNTY:
REGION:

Effective Date:
Date of Transmittal:

This letter serves as your official Notice to Proceed with the above referenced phase of work for the subject project. The Local Government shall perform this phase of project development in accordance with the Local Government Guidelines provided on the Local Program Development Office website at <https://www.tn.gov/tdot/program-development-and-administration-home/local-programs.html>. Work may not be performed for any later phase of project development until an additional Notice to Proceed is issued. Any work performed ahead of a Notice to Proceed's Effective Date will not be reimbursed.

You may procure, in accordance with law, a consulting engineering firm to do all phases of preliminary engineering at this time. Please refer to Section 1.6 of the Local Government Guidelines for guidance on consultant selection, if needed. *Please provide a copy of the executed contract with the consultant and a copy of the notice sent to the consultant indicating the date work was authorized on the phase of the project mentioned above.* These documents should be addressed to Manager, Local Program Development Office and sent by email to Local.Programs@tn.gov. **Note:** If the person in responsible charge for this phase of the project has changed since Form 3-1 (Project Initiation Form) was submitted, the Local Government shall resubmit the responsible charge page (Form 1-1) at this time to the Local Programs Development Office at the email below.

If you have questions or concerns regarding this matter, please direct them to Your Local Programs Monitor at 615.741.5314 in the Local Programs Development Office. You may contact us by email at: Local.Programs@tn.gov.

Coordination Process

- Local Governments are responsible for obtaining all information and data needed to prepare reports, studies, and the environmental document.
- Forms required to initiate coordination process:
 - Coordination Letter
 - Section 106 Assessment
- Supporting Materials
 - LGG NEPA
 - Ecology Scope of Work
- Please reach out to our office [NEPA Special Projects Office](#) for form templates and additional guidance.

Defining the Study Area

- Area of potential effect (APE)
 - Should expand beyond the actual footprint of a project
 - Some examples of features that should be considered that may contribute to/impact the study area:
 - New right-of-way (ROW)
 - Permanent easements (Drainage, Slope)
 - Temporary construction easements
 - Equipment staging areas
 - Haul roads
 - Anticipated detours

Purpose and Need

- States the transportation problem to be addressed by the proposed project (the need) and the degree to which the proposed project should address the stated problem(s) (the purpose).
- Must be supported by data.
- Plays a key role in determining the alternative(s) that will be considered

- Resources:
 - AASHTO Practitioner's Handbook – Chapter 7
 - FHWA Environmental Toolkit
 - Cites additional relevant resources

Technical Studies

- Ecology
- Air Quality & Noise
- Hazardous Materials
- Cultural Resources
 - Archaeology
 - Historic Preservation
 - Native American Consultation
- As appropriate, other studies may be required as well to include, for example, Traffic Study and Conceptual Stage Relocation Plan.

Ecology

- Environmental Boundary Scope of Work
 - Please reach out to our office [NEPA Special Projects Office](#) for a copy.
- TDOT Ecology will:
 - Review documented materials for compliance
 - Complete coordination with all State and Federal agencies on behalf of Local Governments



Air Quality & Noise

- Air Quality Analysis
- Noise Analysis
 - Type I
 - Type II
 - Type III
- Please visit the [TDOT Local Government Guidelines For Completing the NEPA Process](#) for information on developing these analysis.



Hazardous Materials

- Documented desktop review of online databases
 - Please visit the [TDOT Local Government Guidelines For Completing the NEPA Process](#) for additional guidance.
- Definitive statement whether additional hazardous materials studies are necessary. Some examples include:
 - Phase 1 ESA
 - Asbestos Survey



Cultural Resources: Archaeology, Historic Preservation, and Native American Consultation



- Section 106 of the National Historic Preservation Act of 1966
- TCA 4-11-111
- Section 106 Assessment
 - Form template may be found by visiting the [NEPA Hub for Local Programs](#), or reach out to our office [NEPA Special Projects Office](#) for a copy.

Cultural Resources: Archaeology, Historic Preservation, and Native American Consultation

- Identification of NHRP listed or eligible properties
- Coordination with federally recognized Native American Tribes



Additional Information Required

- Public Involvement
- Change in Access Control
- Traffic Control Measures and Access Disruption
 - Floodplain Management
 - Farmland Protection Policy Act
 - Section 4(f)
 - Section 6(f)
 - Environmental Justice

NEPA Timeline

NEPA DOCUMENTATION		
Process Step	Description	Process Time
Technical Studies Review & Approval	Local government representatives provide TDOT NEPA POC with technical studies & coordination letters they completed as part of the NEPA Process. TDOT Tech Studies staff review project tech studies and complete agency coordination. NEPA POC will send email to Local government POC with approved tech study reports and agency concurrence letters.	50 calendar days (includes: 20 TDOT in-house & 30-day agency coordination)
NEPA Document Review & Approval	Local government representative provides the completed NEPA document and appendices that includes all previously approved technical studies. TDOT NEPA POC completes review and approval process.	50 business days (includes: 20 TDOT in-house & up to 30-day FHWA review as needed)

Environmental Document

- The Local Government is responsible for preparing and submitting the document.



STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION
ENVIRONMENTAL DIVISION
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805 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
(615) 741-3655

CLAY BRIGHT
COMMISSIONER

BILL LEE
GOVERNOR

To:
Title:
Address/Street 1:
Address/Street 2:
City/State/Zip:

From:
Title:
Address/Street 1:
Address/Street 2:
City/State/Zip:

Local Programs

Route

Termini

Municipality

County

PIN

Submitted Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)



Reevaluations of Environmental Documents

- Reevaluations ([23 CFR 771.129](#))
 - FHWA NEPA regulations require review of projects generally at major project milestones (i.e., ROW Authorization, Construction Authorization), to confirm that the original NEPA document remains valid.
 - Applicable to all Classes of Action
 - Formal documentation may be required in the event of:
 - Changes to the project scope
 - New or additional ROW or Easements
 - Technical reports or agency coordination “timing out”
 - Changes in applicable laws/requirements
 - Reevaluation Templates: Overview
 - Please reach out to our office [NEPA Special Projects Office](#) for Reevaluation Templates.

Questions??

How can
we **Help?**



Helpful Links

- [Local Government Guidelines Manual](#)
- [Local Government Guideline for Completing the NEPA Process](#)
- [NEPA Hub for Local Programs Projects](#)
- [FHWA Environmental Review Toolkit](#)
- [AASHTO Practitioner's Handbooks](#)
- [National Highway Institute Training Courses](#)

Contact Information

Tennessee Department of Transportation
Environmental Division
James K. Polk Building, 9th Floor
505 Deaderick Street, Suite 900
Nashville, TN 37243

TDOT.Env.LocalPrograms@tn.gov

Overview of Templates

- Coordination Letter
- Section 106 Assessment
- CE Template
- Reevaluation Templates

Please reach each out to our office [NEPA Special Projects Office](#) for the most up to date templates.

Questions??

How can
we **Help?**

